elevation acute coronary syndrome.

Please replace claims 1 and 11 with the following amended claims. A marked-up version of the amended claims are provided herewith as Appendix A.

1. (Amended) A method according to claim 22, wherein said polypeptide originating from the pre-pro B-type natriuretic peptide (BNP) molecule is B-type natriuretic peptide (BNP); and

said correlating step comprises correlating said BNP level to said patient prognosis by determining if said BNP level is associated with a predisposition to an adverse outcome of said non-ST-elevation acute coronary syndrome.

11. (Amended) A method according to claim 22, wherein said polypeptide originating from the pre-pro B-type natriuretic peptide (BNP) molecule is a marker related to BNP; and

said correlating step comprises correlating said BNP-related marker level to said patient prognosis by determining if said BNP-related marker level is associated with a predisposition to an adverse outcome of said non-ST-elevation acute coronary syndrome.

REMARKS

The Examiner has divided the claims into three groups:

Group I: Claims 1-9;

Group II: Claims 11-19; and

Group III: Claims 10, 20, and 21

Applicants hereby elect Group I (Claims 1-9), with traverse.

According to MPEP §803, there are two criteria for a proper requirement for restriction between patentably distinct inventions:

(A) The inventions must be independent or distinct as claimed; and
(B) There must be a serious burden on the examiner if restriction is required.

The Examiner states that the claims of Group I are "drawn to detecting BNP as a marker,"

and the claims of Group II are "drawn to detecting a nonBNP marker," each for the purpose of determining the prognosis of a patient diagnosed with non-ST elevation acute coronary syndrome. While technically correct, the claims of Group II are actually drawn to detecting "markers related to BNP," and not "nonBNP" markers generally. As discussed in the instant specification, "markers related to BNP" include any polypeptide that originates from the same precursor as BNP other than BNP itself. This includes, for example, proteolytic fragments of BNP, the pro domain of pre-pro-BNP, NT pro BNP, *etc.* Specification, page 4, last full paragraph.

Because of the extensive overlap in search required for Groups I and II, Applicants respectfully request that the Examiner consider both Groups I and II on the merits.

Towards that purpose, Applicants have added new claim 22 herein which joins the species recited in the two groups in the form of a generic claim referring to detection of a polypeptide originating from pre-pro-BNP. Applicants have also amended claims 1 and 11 to depend from this independent claim. Applicants note that MPEP §809 provides that the linking claim must be examined with the invention elected, and should the linking claim be allowed, the restriction requirement must be withdrawn. Should the Examiner believe that a species election is required, Applicants elect BNP as the species for examination.

Applicants respectfully submit that the pending claims are in condition for allowance. An early notice to that effect is earnestly solicited. Should any matters remain outstanding, the Examiner is encouraged to contact the undersigned at the address and telephone number listed below so that they may be resolved without the need for additional action and response thereto.

Respectfully submitted,

Date August 1, 2002

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Appendix A: Marked-up version of claim amendment

1. (Amended) A method [of determining a prognosis of a patient diagnosed with a non-ST-elevation acute coronary syndrome, the method] according to claim 22, [comprising:

determining a level of] wherein said polypeptide originating from the pre-pro B-type natriuretic peptide (BNP) molecule is B-type natriuretic peptide (BNP) [in a sample obtained from said patient]; and

said correlating step comprises correlating said BNP level to said patient prognosis by determining if said BNP level is associated with a predisposition to an adverse outcome of said non-ST-elevation acute coronary syndrome.

11. (Amended) A method [of determining a prognosis of a patient diagnosed with a non-ST-elevation acute coronary syndrome, the method] according to claim 22, [comprising:

determining a level of] wherein said polypeptide originating from the pre-pro B-type natriuretic peptide (BNP) molecule is a marker related to BNP [in a sample obtained from said patient]; and

said correlating step comprises correlating said BNP-related marker level to said patient prognosis by determining if said BNP-related marker level is associated with a predisposition to an adverse outcome of said non-ST-elevation acute coronary syndrome.